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HUMAN RIGHTS COMMITTEE

COMMENTS OF THE HUMAN RIGHTS COMMITTEE*

Croatia

A. Introduction

1. Deeply concerned by recent and current events in the territory of the former Yugoslavia affecting human rights protected under the International Covenant on Civil and Political Rights; noting that all the peoples within the territory of the former Yugoslavia are entitled to the guarantees of the Covenant; and acting under article 40, paragraph 1 (b) of the Covenant; the Committee, on 7 October 1992, requested the Government of the Republic of Croatia to submit a short report on the following issues in respect of persons and events now coming under its jurisdiction:

(a) measures taken to prevent and combat the policy of "ethnic cleansing" pursued, according to several reports, on the territory of certain parts of the former Yugoslavia, in relation to articles 6 and 12 of the International Covenant on Civil and Political Rights;

(b) measures taken to prevent arbitrary arrests and killings of persons, as well as disappearances, in relation to articles 6 and 9 of the International Covenant on Civil and Political Rights;

(c) measures taken to prevent arbitrary executions, torture and other inhuman treatment in detention camps, in relation to articles 6, 7 and 10 of the International Covenant on Civil and Political Rights;

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* Adopted at the 1205th meeting (forty-sixth session), held on 6 November 1992

(d) measures taken to combat advocacy of national, racial or religious hatred constituting incitement to discrimination, hostility or violence, in relation to article 20 of the International Covenant on Civil and Political Rights.

2. Pursuant to that request, Croatia submitted a short special report entitled "Report on measures taken to prevent criminal acts perpetrated in violation of the human rights and freedoms in the Republic of Croatia", which was considered by the Committee at its 1201st and 1202nd meetings, held on 4 November 1992. The Republic of Croatia was represented by Mr. Smiljan Simac, Assistant Minister of Foreign Affairs of the Republic of Croatia, Head of Delegation; Professor Dr. Budislav Vukas, Faculty of Law Zagreb, Member of Delegation; Professor Dr. Davor Krapac, Faculty of Law Zagreb, Member of Delegation. The report was supplemented by an oral introduction by Mr. Simac, and by responses by various members of the delegation to the questions and observations of members of the Committee.

3. On 12 October 1992, the Republic of Croatia notified the Secretary-General of the United Nations that it had succeeded, as from 8 October 1991 (the date of its proclamation of independence), to various human rights treaties, including the International Covenant on Civil and Political Rights.

B. Positive aspects

4. Certain factors encouraging to the guaranteeing of human rights were noted. The Republic of Croatia had attained statehood after democratic parliamentary elections in 1990. The new Constitutional Law of Human Rights and Freedoms and the Rights of Ethnic and National Communities or Minorities, adopted in December 1991 and amended in April 1992, incorporated United Nations treaty obligations on human rights. An office for inter-ethnic relations had been opened, which would have branches in various districts of Croatia and a wide-reaching mandate. The Croatian delegation confirmed that, in the view of the Government, the only proper use of ethnic identity was to ensure that ethnic minorities received the guarantees to which they are entitled under article 27 of the Covenant. It was also noted that certain charges had been brought in the courts against persons who were accused of crimes against civilians, crimes against prisoners of war and the crime of genocide. The three prisoners of war camps in Croatia were under the control of the Ministry of Defence and open to the International Committee of the Red Cross. The Government had condemned the policies of the ultra right paramilitaries and political parties and was conducting investigations into the activities of certain members of parliament belonging to the Croatian Right Party.

C. Factors and difficulties impeding the application of the Covenant

5. Since its independence, the territory of the Republic of Croatia has been subjected to large scale military action. This had resulted in massive violations of human rights, including significant loss of life, torture, disappearances and summary executions, with entire towns destroyed and populations displaced. Because of the conflict in the neighbouring Bosnia-Herzegovina, Croatia had also received very large numbers of refugees.

6. The representatives also informed the Committee that Croatia controlled only about three quarters of its territory, the remainder being under the authority of UNPROFOR. The delegation conceded that there had been periods during the hostilities on its territory when public order had broken down and there had been an inability to control ethnically based violence against Serbs. It accepted legal responsibility for those events.

D. Principal subjects of concern

7. The Committee was concerned with the preamble to the Constitution, whereby the Republic of Croatia is defined as "the national state of the Croat nation and a state of members of other nations and minorities". Concern was expressed about long-standing discrimination against, and harassment of, ethnic Serbs residing within Croatia. In particular, the circulation of lists of persons grouped on the basis of their ethnic origin was to be deplored. Purges had been permitted of the public services and the police had become identified with ultra right nationalism. Members of the military were often seen in public, including in Bosnia-Herzegovina, wearing fascist emblems. Serbs had been removed from their jobs in the press and there had been widespread arrests and disappearances. Persons were being held in deplorable conditions in places of detention in Bosnia-Herzegovina, which were under the control of the Croatian army or local Croatian military factions who received the backing of the Republic of Croatia. The international responsibility of the Republic of Croatia was engaged in relation to these events.

8. The Committee believed that there were in Croatia undesignated places of detention where persons were held, often by private groups. Many persons for whom there was no legitimate cause of detention were unlawfully held. Sometimes they were deprived of their liberty simply in order to be able to effect exchanges for Croatians held as prisoners elsewhere.

E. Recommendations

9. The Government of Croatia is urged to act vigorously against all manifestations of racial hatred. Public condemnation should be made of the circulation of lists of persons' names based on ethnicity and further appropriate action should be taken. Strong efforts should be made to identify undeclared places of detention and to ensure that only bona fide prisoners of war are held in properly notified camps operating in accordance with the Geneva Conventions and the Covenant. Responsibility must be accepted for the acts of the military in other territories as well as in Croatia. Clear instructions should be issued to all military personnel as to their obligations under the Covenant. The foregoing had to be borne in mind in the context of support afforded, directly or indirectly, to local Croatian militia in Bosnia-Herzegovina. Those responsible for violations of human rights should be brought speedily before the courts. In that regard, the existing distinctions between military and civil jurisdictions should be reviewed so that military personnel might be tried and, if found guilty, punished under normal civil jurisdiction.